United Nations S/2005/775

Security Council

Distr.: General
12 December 2005

Original: English

Letter dated 12 December 2005 from the Secretary-General addressed to the President of the Security Council

I have the honour to transmit herewith the report of the United Nations International Independent Investigation Commission (the "Commission"), which was prepared pursuant to resolutions 1595 (2005) and 1636 (2005) (see annex).

The report details progress made in the investigation of the bombing in Beirut on 14 February 2005 that killed former Prime Minister Rafik Hariri and 22 others and builds on earlier conclusions presented to the Security Council. It outlines in detail substantive progress on a number of aspects of the investigation and it demonstrates a growing partnership between the Lebanese authorities and the Commission. The report describes the Commission's efforts to gain the cooperation of the Syrian authorities. Those efforts have only recently begun to bear fruit after delays which had an impact on the Commission's ability to effectively carry out its work.

I wish to thank the staff of the Commission for their excellent work. In particular, I wish to thank Detlev Mehlis, the Commissioner, for his excellent leadership in establishing the Commission and setting it on a firm and professional footing. Mr. Mehlis has informed me that he would not be available to head the Commission if the Security Council chooses to extend its mandate. In the meantime, I have been working to ensure that a successor is chosen as soon as possible, and have also worked out a satisfactory arrangement with Mr. Mehlis to ensure continuity of the Commission's work until a successor assumes his or her duties.

Mr. Mehlis recommends, pursuant to paragraph 8 of resolution 1636 (2005), that the mandate of the Commission be extended for a period of six months to enable the investigation to continue. This extension was requested, also pursuant to paragraph 8 of resolution 1636 (2005), by Mr. Fouad Siniora, President of the Council of Ministers of Lebanon, in a letter to me dated 5 December.

I should be grateful if you would bring this matter to the attention of the members of the Security Council. Meanwhile, I am transmitting the report to the Government of Lebanon.

(*Signed*) Kofi A. **Annan**

05-63679 (E) 151205

Annex

Second report of the International Independent Investigation Commission established pursuant to Security Council resolutions 1595 (2005) and 1636 (2005)

Detlev Mehlis
Commissioner
UNIIIC

Beirut
10 December 2005

Summary

The Security Council, by its resolution 1636 (2005) of 31 October 2005, requested the United Nations International Independent Investigation Commission to report on the progress of its investigation of all aspects of the terrorist attack which took place on 14 February 2005 in Beirut that killed former Lebanese Prime Minister Rafik Hariri and others, including to help identify its perpetrators, sponsors, organizers and accomplices, by 15 December 2005.

The present report sets out progress with the main lines of enquiry of the investigations since the adoption of Council resolution 1636 (2005), its observations thereon and its conclusions and recommendations, for the consideration of the Security Council. It also identifies those matters on which further investigation may be necessary.

The report outlines progress with regard to the form and content of Syrian cooperation with the Commission.

The Commissioner sets out the next steps which are planned to be taken in the enquiry, as well as a number of conclusions and recommendations which reflect current progress in the investigation.

Contents

		Paragraphs	*Page*
I.	Preface	1–11	3
II.	Progress in the investigation	12–73	5
III.	Syrian cooperation with the Commission	74–87	17
IV.	Conclusions and recommendations	88–95	19

I. Preface

1. In accordance with Security Council resolution 1595 (2005), the United Nations International Independent Investigation Commission ("UNIIIC" or "the Commission") submitted its report on 19 October 2005 (S/2005/662), reflecting the outcome of its work since it was declared operational on 16 June 2005.

2. In a letter dated 14 October 2005 (S/2005/651), the Prime Minister of Lebanon conveyed to the Secretary-General of the United Nations the request of the Government of Lebanon to extend the mandate of the Commission until mid-December 2005. The purpose of the extension was to enable the Commission to further assist the Lebanese authorities to pursue the various lines of enquiry that had emerged in the course of the investigation in order to attain the main objective of the mission: to help identify the perpetrators, sponsors, organizers and accomplices in the terrorist attack which killed former Prime Minister Rafik Hariri and 22 others on 14 February 2005 in Beirut.

3. Following the presentation of the Commission's report and the briefing provided by the Commissioner to the Security Council on its content on 25 October 2005, the Security Council, acting on the request submitted by the Government of Lebanon and mindful of the Commission's recommendation that continued assistance should be provided to the Lebanese authorities, adopted resolution 1636 (2005) of 31 October 2005, whereby the Council welcomed the report of the Commission and the Secretary-General's decision to extend the mandate of the Commission until 15 December 2005.

4. In its resolution 1636 (2005), a follow-up to resolution 1595, the Council extended the scope of the Commission's authority insofar as it gave the Commission, inter alia, the same rights and authorities vis-à-vis the Syrian Arab Republic as it has been granted in Lebanon, and the authority to determine the location and modalities for interview of Syrian officials and individuals it deems relevant to the enquiry. It called upon the Syrian authorities to cooperate fully and unconditionally with the Commission and to detain any Syrian officials or nationals considered as suspects by the Commission.

5. In conformity with the two resolutions, the Commission continued its work on the same lines of enquiry it had adopted since its inception. The Commission, in close cooperation with the Lebanese judicial and security authorities, has pursued new leads, heard an additional number of witnesses (which today total more than 500), confirmed a list of 19 suspects, analysed a voluminous bulk of materials with the help of the Internal Security Forces (ISF), and continued to exchange with the Office of the Prosecutor General of Lebanon all resultant information, material and evidence.

6. With regard to the Syrian track of the investigation, the Commission acted in conformity with Council resolution 1636 (2005), in which the Council endorsed the Commission's conclusion that it was incumbent upon the Syrian authorities to clarify a considerable part of the questions which remain unresolved. A window of opportunity was open for the Syrian authorities to carry out their own investigation into the assassination of Mr. Hariri and others insofar as Syrian involvement might be concerned.

7. By virtue of legislative decree No. 96 (29 October 2005), a Syrian Judicial Commission was set up to carry out its own investigation into the Hariri case. While UNIIIC welcomes this initiative, it is of the view that the Syrian Judicial Commission's function is to focus on the internal investigation of the case to clarify a picture that UNIIIC has been trying hard to comprehend. The Syrian Commission cannot invalidate or substitute for the work of UNIIIC. The Commission, for its part, will continue its contacts with the Syrian authorities to move forward on the Syrian track.

8. By creating the Judicial Commission, the Syrian authorities were perceived as willing to share their part of the responsibility so as to shed more light on the circumstances of the assassination and to help establish the truth. Whether this measure was prompted by a genuine desire to cooperate in substance or whether it came as a result of the firm message conveyed by Council resolution 1636 (2005), it remains to be seen whether a substantive law-enforcement investigation will be carried out to its full extent. Moreover, it is only the actual and continuous responsiveness of the Syrian authorities that will remove any doubts about Syrian substantive movement in the case.

9. Following the adoption of Council resolution 1636 (2005), the Commission immediately summoned six Syrian officials whom it considers as suspects. After arduous discussions and considerable delay due to procedural manoeuvring and sometimes contradictory feedback from the Syrian authorities, a location was determined for the questioning of five Syrian officials. The interview of the sixth suspect has been postponed. The Commission is also still awaiting the provision of other requested materials. At the same time, the Syrian Judicial Commission organized a press conference with a Syrian witness who gave journalists an opportunity to question him before the Judicial Commission could do so, and who contradicted prior sworn evidence given to the Commission. The Syrian official statements that ensued, calling upon UNIIIC to reconsider past mistakes and to revise its report, was a clear indication that, while an official channel of communication was operating between the Commission and the Syrian authorities regarding cooperation, the Judicial Commission and the Syrian authorities were aiming to cast doubt on the content of the UNIIIC report. This was, at the least, an attempt to hinder the investigation internally and procedurally.

10. However, it is worth noting that, despite their reluctance and procrastination, the Syrian authorities did make available for questioning the five Syrian officials that the Commission had summoned. The extensive interviews took place outside the Syrian Arab Republic, according to conditions determined by the Commission. UNIIIC investigators were also able to interview a Syrian witness in the Syrian Arab Republic without interference. As this is the beginning of a long-awaited process, it is up to the Syrian authorities to be more forthcoming in order to make headway in a process that will be most probably a long one if it is to be judged against the pace of progress to date.

11. To date, the Commission has made steady progress on the Lebanese track. It remains to be matched on the Syrian track. For that reason, it is the Commission's view that the Syrian Arab Republic should pursue its own investigation in an earnest and professional manner and respond to the Commission in a timely way, fully and unconditionally, before it is determined whether it is complying in full with the provisions of resolution 1636 (2005).

II. Progress in the investigation

12. In the short period since its last report, the Commission has continued to follow the lines of enquiry developed over the course of the previous six months of investigation, as well as to pursue a number of new leads, sources and other materials. Close cooperation has continued with the Lebanese authorities, in particular with the office of the Prosecutor-General and the Investigative Judge assigned to the case: the transfer of materials in the case file has proceeded at regular intervals; weekly liaison meetings have been held; the Internal Security Forces (ISF) have participated in review and analysis activities, in close tandem with investigators; and a representative of the office of the Lebanese Prosecutor-General has participated in the preparation of interviews of Syrian suspects.

13. The Commission has had an intentional strategy to hand over, step by step, the findings and results from its efforts to the Lebanese authorities, so as to strengthen their ownership of the course of the investigation. There have also been an increased number of joint operations for the same purpose and to enhance transparency.

14. From 7 October to 10 December 2005, 52 witness statements, 69 investigators' notes and eight suspect statements were issued. Three searches were conducted and seven exhibits were obtained. A total of 37,000 pages of documents have been entered into the case file. Fourteen investigators from 10 different Member States have been involved in the Commission's investigative work, as well as a number of external experts.

15. At the time of the renewal of its mandate at the end of October, the Commission's investigative team was consolidated and supplemented by other expertise in research/analysis and electronic database management. The close association of Interpol has continued without change. The support team was supplemented to provide a broader range of language and related services to investigators. At the present time, the Commission has a total of 93 personnel. Partnerships with sister organizations of the United Nations system and other international organizations, as well as the use of specialized inputs of national expertise, continue to reinforce the support platform for the mission. The Commissioner again acknowledges with gratitude their contributions.

16. The Commission, in full agreement with the Lebanese authorities, reiterates its view that, to investigate a case of this complexity, many months of work are needed to ensure that all lines of enquiry have been exhausted in a thorough manner. It is through the convergence of multiple avenues of enquiry that patterns emerge and begin to focus on the most critical elements.

17. The Commission continues to follow traces and leads developed from the previous months of investigation regarding both Syrian and Lebanese suspects and their associates, witnesses, evidence obtained from the crime scene regarding the nature and type of explosives used in the assassination, and information about the other evidence found at the crime scene, as well as about individuals closely associated with the events of 14 February 2005.

18. To date, UNIIIC has interviewed and obtained the statements of 19 suspects. Analysts are in the process of reviewing those statements, focusing on any significant issues or leads that can be identified, for the purpose of cross-checking those issues and leads with other statements. One of the specific areas of focus is

information related to the planning of the assassination, including locations, dates, times and participants in meetings. The analysis also reviews the telephone contacts of the 19 suspects immediately prior to, during and immediately after the assassination. This cross-checking process is designed to facilitate a comprehensive and coherent testing of the credibility of sources and the reliability of information collected. This process will help the Commission to develop a better picture of how the events leading up to and immediately following the assassination evolved, including the people involved and their contacts.

19. The Commission is also in the process of reviewing all witness statements to pinpoint the measures which need to be taken — whether through further interviews, telephone analysis, or other evidentiary means — in order to corroborate those statements or pursue open leads. With regard to the major issues identified in the investigation, analysts are cross-matching all statements and other evidence in UNIIIC files to determine which of those issues require specific follow-up action.

20. To that end, UNIIIC is developing a tracking database useful to investigators and analysts as a research tool for systematically examining suspect and witness statements. The database will create reports on the significant issues ("threads") covered in the statements, for quick recovery in the course of re-interviewing existing suspects and witnesses and introducing future evidence.

A. Suspects

21. UNIIIC, in close cooperation with the Lebanese judicial authorities, has to date identified 19 individuals as "suspects" in this investigation, indicating that, based on the evidence accumulated to date, there is reason to believe that those individuals may have been involved in some way in the planning or execution of the crime or engaged in deliberate attempts to mislead the investigation as to its perpetrators. Those individuals have been advised of their status as suspects and are presumed innocent until proven guilty after trial. When interviewed, they have been accorded the rights that suspects enjoy under Lebanese law.

22. The Commission has continued to investigate the evidence against individuals identified as suspects by cross-checking their statements with those of other witnesses and evaluating those statements against other evidence collected in order to assess their credibility. This is a continuing process in view of the fact that, over the steady evolution of an investigation of this complexity, new evidence, new leads and new witnesses come to light that necessitate careful corroboration and cross-matching against the totality of the accumulation of evidence.

1. Lebanese suspects

23. As set out in the previous report of the Commission (S/2005/662, para. 174), on 30 August 2005 the Lebanese authorities detained four high-level officials of the Lebanese security and intelligence services pursuant to arrest warrants issued by the Lebanese Prosecutor-General. Those four individuals remain in custody. They have not been re-interviewed in the past seven weeks, pending the continuing collection and analysis of evidence about their involvement in the crime.

24. The Commission has continued to investigate Lebanese individuals about whom there are strong indications that they were involved in or may have further

crucial information about the assassination. As noted in the previous report (S/2005/662, paras. 208-214), the role of Sheikh Ahmed Abdel-Al of Al-Ahbash and his associates remains a critical line of inquiry in the light of a pattern of telephone contacts and associations. The Commission has continued to investigate those associates, as well as links between Al-Ahbash and a number of key suspects. Interviews have focused on family members whose telephone contacts and professional associations indicate close links to the suspect Mustapha Hamdan and other Lebanese officials.

2. Syrian suspects

(a) High-ranking Syrian officials

25. Based on the Commission's request of 4 November 2005 to interview six high-ranking Syrian officials, the Commission and a representative of the Foreign Ministry of the Syrian Arab Republic entered into an agreement that the Commission would interview initially five Syrian officials at the premises of the United Nations Office at Vienna. It was further agreed that Lebanese legal procedures would apply to those interviews.

26. Pursuant to that agreement, between 5 and 7 December 2005 five Syrian officials were interviewed as suspects. Each interview was conducted in the presence of one Syrian and one international lawyer and a sworn international interpreter. After the interviews, the interviewees signed their statements and DNA samples were taken from them. The questioning of those individuals touched on a broad range of issues related to the evidence that the Commission had gathered in its investigation. Statements made by two of the suspects indicated that all Syrian intelligence documents concerning Lebanon had been burned. It was also confirmed, by a letter transmitted to the Commission from the Head of the Syrian Special Investigation Commission, Judge Ghada Murad, dated 8 December 2005, that no material regarding the assassination of Mr. Hariri had been found in Syrian intelligence archives. Those matters require further investigation by the Commission.

(b) Mr. Zuhir Ibn Mohamed Said Saddik

27. Mr. Saddik initially came forward as a confidential witness to UNIIIC with detailed information about the assassination of Mr. Hariri (see S/2005/662, paras. 104-116). Based on statements he made to the Commission, he was later determined to be a suspect in connection with the investigation (see S/2005/662, para. 112). On 12 October 2005, an international arrest warrant was issued for Mr. Saddik, who was residing in France, at the request of the Lebanese Government, which also requested his extradition. Mr. Saddik was arrested by the French police on 16 October 2005. UNIIIC has since submitted requests through the Lebanese Government to the French authorities to obtain permission to interview Mr. Saddik, who remains in French custody. Arrangements are being made with the French authorities for conducting that interview.

28. In order to further investigate Mr. Saddik's statements about the planning and execution of the crime, the Commission obtained DNA samples from Mr. Saddik, as well as from his wife, children and brothers-in-law. Those samples were analysed to determine whether there was a match with either evidence from an apartment in Al-

Dahiyye, Beirut, in which Mr. Saddik stated he attended planning meetings, or evidence retrieved from the crime scene. The results of those comparisons were negative.

B. Sensitive witnesses

29. As in any criminal investigation, the information provided by sensitive witnesses with personal knowledge of the planning and organization of the crime and its perpetrators is essential. The previous report detailed some of the relevant information that had been provided to UNIIIC by a number of such witnesses (see S/2005/662, paras. 96-117). Those witnesses often find themselves in grave danger due to the nature of the criminal organizations about whom they are providing information.

1. Mr. Hussam Taher Hussam

30. Since the release of the previous report, the identity of one such previously confidential source has been disclosed. That source, Hussam Taher Hussam, has recently appeared on Syrian television withdrawing his prior testimony to UNIIIC and claiming that this testimony, which implicated high-level Syrian officials in the assassination, had been coerced. His appearance on Syrian television was apparently at the behest of the Syrian Judicial Commission charged with investigating the Hariri assassination. The UNIIIC investigation into Mr. Hussam's current claims is continuing. The Commission has learned that, before his current trip to the Syrian Arab Republic, Mr. Hussam provided to close friends an account of the assassination that was similar to the account he provided to UNIIIC. The Commission has also received credible information that, prior to Mr. Hussam's recent public recantation of his statement to UNIIIC, Syrian officials had arrested and threatened some of Mr. Hussam's close relatives in the Syrian Arab Republic. Preliminary investigation leads to a conclusion that Mr. Hussam is being manipulated by the Syrian authorities, raising serious questions about whether the Syrian Judicial Commission is committed to conducting an independent, transparent and professional investigation into the crime.

2. New witnesses

31. UNIIIC has also been approached by a number of new witnesses with potentially critical information about the assassination. Those new sources of information have been interviewed in recent weeks and, in coordination with the Lebanese authorities, UNIIIC is further investigating and corroborating their information. Given that their information is still in the process of being evaluated and the need to protect their identities to ensure their safety, the present report does not detail the information they have provided.

32. In late October 2005, the Commission was approached by another new witness, who has submitted a comprehensive and coherent statement regarding plans to assassinate Mr. Hariri. The witness has been assessed to be credible and the information he has submitted to be reliable. The information is detailed and has undergone cross-checking measures, which have so far confirmed the information in the statement. The statement cross-corroborates other independent information gathered by the Commission.

33. The detailed information points directly at perpetrators, sponsors and organizers of an organized operation aiming at killing Mr. Hariri, including the recruitment of special agents by the Lebanese and Syrian intelligence services, handling of improvised explosive devices, a pattern of threats against targeted individuals and planning of other criminal activities.

34. The statement from the witness strengthens the evidence confirmed to date against the Lebanese officers in custody, as well as high-ranked Syrian officers.

35. The investigation has also uncovered more specific information about the manner in which the Syrian security apparatus controlled and manipulated the security situation in Lebanon. For example, it was reported to the Commission that, after the assassination of Mr. Hariri, a high-level Syrian official supplied arms and ammunition to groups and individuals in Lebanon in order to create public disorder in response to any accusations of Syrian involvement in the Hariri assassination. The Lebanese authorities have opened a separate investigation into the planning of terrorist attacks in connection with that information.

C. Crime scene

36. A critical element in an investigation of an explosion of the magnitude of 14 February 2005 is the minute examination and analysis of the crime scene. This includes forensic analysis of items retrieved after the explosion, which may provide clues as to the nature and type of explosion and the explosive(s) used, as well as the means by which it was detonated. It also involves interviews of witnesses who may have crucial information about events at the crime scene either before, during or after the crime, and interviews of individuals who may appear to have been acting suspiciously in its vicinity. The Commission has continued to pursue each of those avenues with the purpose of reconstructing as comprehensive and accurate a picture as possible about the events which led up to and followed the explosion of 14 February 2005.

37. In October 2005, UNIIIC handed over approximately 600 exhibits from the crime scene to the office of Prosecutor-General of Lebanon, after forensic examination. Some exhibits had originally been collected from the Prosecutor-General's office at the beginning of the investigation. The exhibits include hundreds of vehicle parts.

1. Enquiry into activation mechanism

38. The previous report (see S/2005/662, paras. 159-169) provided a comprehensive review of the analysis of the crime scene. In the course of that examination, many electronic parts were recovered. Three particular items were set aside for intensive expert scrutiny to ascertain whether they could shed light on the activation mechanism of the device used to trigger the explosion. This line of enquiry has included cross-matching of results of this analysis with exhibits recovered at the crime scene which have been confirmed as being part of a Mitsubishi Canter truck.

39. As a result of this examination, it was concluded that one electronic part originated from a laptop personal computer: because it was not severely damaged, it could not have been close to the site of the explosion itself and thus could not be

part of an activation mechanism. The origin and function of the two other electronic parts, which were heavily damaged, could not be determined: no conclusion could be drawn about their connection to an activation mechanism for the explosion.

2. Explosives (residues)

40. The previous report (see S/2005/662, para. 145) noted that the confused measures taken by the Lebanese authorities immediately following the explosion made it difficult to identify with certainty the type of explosives used in the blast. With assistance from an expert on post-blast scene investigations and proper laboratory examinations, the Commission has received expert input identifying the type of explosive used in the blast. The Commission will undertake further investigative measures based on this forensic expertise in order to track down the origin of the explosive.

3. Mitsubishi truck

41. As noted in the previous report (see S/2005/662, paras. 132-134), CCTV video footage from the HSBC bank overlooking the crime scene showed a Mitsubishi Canter truck entering the area of the explosion shortly before the arrival of Mr. Hariri's convoy. During their search of the crime scene, the Netherlands forensic team recovered a piece of an engine block, among other vehicle parts. With the assistance of the Japanese forensic team, that engine block was identified as a part of a vehicle stolen from Japan on 12 October 2004. The Internal Security Forces confirmed that they had no record of any vehicle in Lebanon with either the chassis number or engine numbers identified on the recovered vehicle parts.

42. At the Commission's request, the Japanese national police opened an investigation into the stolen vehicle. They concluded that the vehicle had been shipped, either in whole or in parts, from Japan to another country, most likely the United Arab Emirates (UAE). Since September, UNIIIC has worked closely with both the Japanese and United Arab Emirates authorities to trace the movements of the vehicle, including reviewing shipping documents from the United Arab Emirates and, with the assistance of the United Arab Emirates authorities, attempting to locate and interview the consignees of the container in which the vehicle or its parts is believed to have been shipped. This line of enquiry remains in its early stages.

4. Road works/excavations

43. As previously noted (see S/2005/662, paras. 129-131), witnesses have provided information regarding excavation work in the area of the St. George Hotel during the days immediately preceding the blast, despite the fact that no official work permits were issued for such excavation work during that period. Some witnesses have attested that members of the Lebanese security forces were present in the area of those excavation works. Those witnesses appear to the Commission to be consistent and credible in their recollection of road works being carried out in that area during the relevant time period. That line of enquiry is significant.

5. HSBC video

44. The Commission has conducted a line of enquiry, in cooperation with the Lebanese Internal Security Forces, regarding a group of individuals who appeared to be acting suspiciously shortly before the explosion in front of the HSBC Bank near

the St. George Hotel, based on a close examination of the HSBC CCTV footage taken on 14 February 2005. Although the Commission has concluded that none of the individuals interviewed to date were involved in any activity in connection with the explosion, in order to ensure that that track is fully exhausted some additional interviews will be necessary.

6. Unidentified human remains

45. As noted in the previous report (see S/2005/662, para. 163 (d)), a small amount of the human remains of an unidentified person was found at the crime scene. Analysis of that evidence continues to be undertaken by the Commission with the assistance of specialized forensic experts.

D. Background to the crime (including new leads)

46. As in any criminal inquiry of this nature, the investigation has sought a comprehensive understanding of all possible perpetrators, modus operandi and motives. To that end, the Commission is in the process of reviewing a substantial volume of material from Government agencies regarding their surveillance operations; interviewing witnesses to examine more thoroughly the relationships between Mr. Hariri and various significant individuals; continuing the investigation into Mr. Abu Adass; enhancing telephone analysis; and pursuing any leads regarding potential motives or perpetrators. There is a steady pattern of converging circumstantial evidence related to motive for the crime which bears directly on the increasingly tense atmosphere which culminated in Mr. Hariri's decision to step down as Prime Minister in late 2004 (see S/2005/662, para. 94). Also, the Commission has not found any significant evidence that alters the conclusion of probable cause which is set out in the previous report concerning the involvement of top-ranked Syrian and Lebanese officials (see S/2005/662, paras. 118-124).

1. Impact of Syrian and Lebanese security and intelligence services

47. The previous report noted that, given the extent to which the Syrian and Lebanese intelligence and security services infiltrated daily Lebanese life, specifically the manner in which they monitored Mr. Hariri's movements, there was little probability that a third party could have undertaken the necessary surveillance of Mr. Hariri and maintained the resources, logistics and capacity needed to initiate, plan and commit a crime of that magnitude, without the knowledge of the Lebanese security services and their Syrian counterparts (see S/2005/662, paras. 123 and 124).

48. The Commission has obtained additional evidence of the manner in which these entities controlled Lebanese society through a number of Lebanese agencies, providing further corroboration for this assessment. Although analysis of that material is still under way, the accumulated evidence presents a stark picture of how those various agencies — including Military Intelligence, the Sûreté Générale and the ISF — undertook widespread surveillance operations within Lebanon, of which the surveillance of Mr. Hariri and the monitoring of his telephone lines (see S/2005/662, paras. 118, 123 and 125-128) were only a small part.

(a) Intercepted telephone conversations (military intelligence)

49. As previously indicated (see S/2005/662, paras. 125-128), the Technical Directorate of Lebanese military intelligence services conducted extensive wiretapping of Mr. Hariri's telephone lines over a sustained period: the transcripts were forwarded on a daily basis to high-level Lebanese and Syrian officials, including Raymond Azar, Jamil Al-Sayyed and Rustum Ghazali, among others.

50. In November 2005, the Commission submitted a request to the Lebanese military intelligence services for a complete and comprehensive index of the wiretapped telephone conversations of Mr. Hariri for the period October 2004-March 2005. In response, UNIIIC received an incomplete portion of the transcripts of telephone intercepts (consisting of approximately 14 pages) of Mr. Hariri and his household. The Commission further learned that the wiretapping operation included the surveillance of numerous public figures and high-level officials. The archives have been erased, but measures are being undertaken in order to restore the deleted data for further review.

51. The analysis of those transcripts will provide, at a minimum, a comprehensive picture of the manner in which the Lebanese security and intelligence apparatus conducted surveillance on high-level officials in Lebanon, which was in turn shared with their Syrian counterparts, and particularly the extent to which both the Lebanese and Syrian security services were closely monitoring Mr. Hariri.

(b) Intercepted telephone conversations (Sûreté Générale)

52. The Commission obtained a copy of an intercepted telephone conversation, which was quoted in part in the previous report (see S/2005/662, para. 95), between Mr. Ghazali and a prominent Lebanese official. In October, the Commission obtained a CD-ROM of transcripts of telephone conversations which had been intercepted by the Intelligence Section of the Sûreté Générale. Investigation has revealed that the Sûreté had conducted an interception operation covering numerous high-level Lebanese officials and prominent figures. The CD-ROM under analysis contains intercepted conversations for the period January 2003-June 2005.

53. With the help of investigators from the ISF, approximately 26,000 pages of conversations have been reviewed and screened: conversations for the period December 2004-March 2005 have been summarized. A small cluster of interceptions have been identified as significant and have been cross-matched against other information gathered by the Commission. Some of these interceptions, such as a call from the mother of Ahmad Abu Adass, provide useful background evidence; other conversations provide significant insight into the scope of involvement of key individuals in the assassination, as well as the awareness of the Lebanese authorities of the movements and conversations of prominent Lebanese figures.

(c) ISF records

54. The former Director-General of the Internal Security Forces, General Ali Al-Hajj, was arrested by the Lebanese authorities at the suggestion of the Commission on 30 August 2005 for conspiracy to commit murder in connection with the assassination of Mr. Hariri (see S/2005/662, para. 174). On 30 August, investigators from the Commission and Internal Security Forces officers conducted a search of the private residence of General Al-Hajj. During that search, investigators

discovered several electronic media, including removable data tapes, stored in a safe. A preliminary examination of those electronic files and accompanying documentation revealed that they comprised classified intelligence reports on a wide variety of topics which were obtained by General Al-Hajj from the Internal Security Forces and illegally kept by him.

55. With the assistance of officers of the Internal Security Forces, the Commission has completed a review of those files. An initial screening isolated 1,000 files containing information significant to the investigation and deemed worthy of in-depth review. Analysis of those files is continuing. Those materials provide extensive background information on the political and security situation in Lebanon during the period before the assassination, as well as the Internal Security Forces investigation into the crime. In particular, the files reveal the degree to which the Lebanese security and intelligence institutions were intertwined with and influenced by their Syrian counterparts.

2. "Damascus Protocol"

56. As noted in the previous report, the UNIIIC investigation confirmed that, during the period prior to the assassination, there was growing tension between Mr. Hariri and senior Syrian officials, including Syrian President Bashar Al-Assad, (see S/2005/662, para. 25). The previous report pointed to a meeting held on 26 August 2004 between Mr. Hariri and President Al-Assad, which appeared to bring that conflict to a head. Based on investigation of further information received about that tension, the Commission has learned of the alleged existence of an informal oral agreement between Syrian top-level officials and Mr. Hariri, which set out what the latter was allowed to do and not to do in relation to Syria (referred to as the "Damascus Protocol").

57. A further indication that such an agreement exists derives from an intercepted phone call between Mr. Ghazali and Mr. Hariri that took place on 3 August 2004, at 1030 hours:

> "Ghazali: Your Excellency, in follow-up to the meeting that took place and the agreement that we reached concerning the truce and the exchanged political campaigns between you and the President, I have been reading in the *Future* newspaper this (...) "officials protect the corruption". This talk is like a violation of the truce. Why is this subject, Your Excellency? Didn't we agree to stop the subject?
>
> Hariri: (...) statement was all over the newspapers, and in fact I was first ...
>
> Ghazali: I would like to ask a question, Your Excellency, are you still committed to the agreement?
>
> Hariri: Of course."

58. The Commission will undertake further investigative efforts to elucidate the basis for the agreement and its implications regarding motivations for and execution of the crime.

3. Ahmad Abu Adass

59. As set out in the previous report (see S/2005/662, paras. 180-182), the Commission's investigation into the whereabouts of Ahmad Abu Adass was hindered by the unavailability of two important witnesses, Ziad Ramadan and Khaled Midhat Taha. Further investigation has revealed that both individuals, who were close associates of Mr. Abu Adass, left Lebanon for the Syrian Arab Republic before the Commission could interview them. Accordingly, the Commission has submitted requests to the Syrian authorities for detailed information about Mr. Taha's whereabouts, in particular his travel records into and out of the Syrian Arab Republic. More recently, on receiving media information that Mr. Ramadan had been imprisoned in the Syrian Arab Republic, the Commission also submitted requests to Syrian authorities on 4 November 2005 for information about the reason for Mr. Ramadan's arrest and to interview him.

60. The Commission has not yet received any further details from the Syrian authorities regarding Mr. Taha, other than confirmation that he had entered the country.

61. Regarding Mr. Ramadan, the Syrian Judicial Commission advised UNIIIC that it had interrogated him on 8 November 2005 regarding his relationship to Mr. Abu Adass. The Commission then arranged through the Syrian authorities to interview Mr. Ramadan. That interview took place on 1 December 2005.

62. In the interview, Mr. Ramadan stated that he met Mr. Abu Adass at the end of 2002, when they were both employed at the same computer company. Mr. Abu Adass had told him about the individual named "Mohammed" whom Mr. Abu Adass had befriended at the mosque, information which had been relayed to both the Lebanese authorities and UNIIIC by Mr. Abu Adass's mother. Upon learning from Mr. Abu Adass's family that he had left home on 16 January 2005 with an unknown man and had subsequently disappeared, Mr. Ramadan immediately wondered whether that person was "Mohammed". Mr. Ramadan did not know any of Mr. Abu Adass's other friends or associates and could shed no light on Mr. Abu Adass's whereabouts or the identity of "Mohammed". He confirmed that Mr. Abu Adass did not have the ability to drive a car and that there was no Internet connection in Mr. Abu Adass's house.

63. Mr. Ramadan stated that he left Lebanon for the Syrian Arab Republic in March 2005 because he was Syrian in light of allegations of the implication of the Syrian Arab Republic in the assassination of Mr. Hariri, and also because he was aware that Lebanese military intelligence was looking for him. Mr. Ramadan then voluntarily surrendered to the Syrian authorities on 21 July 2005 upon learning that they were looking for him. According to Mr. Ramadan, he has been arrested and detained without charges since that date, and he has been interviewed six times by Syrian intelligence. Not only has UNIIIC yet to receive from the Syrian authorities any records of those interviews with Syrian intelligence, but, in the course of interviewing Syrian officials in September 2005, UNIIIC investigators specifically inquired as to whether the Syrian Arab Republic had conducted any investigation into the Hariri assassination. They were informed then that the Syrian Arab Republic had not. It was only in December 2005, through its interview of Mr. Ramadan, that UNIIIC learned that Mr. Ramadan, obviously a figure of interest in the Hariri investigation, had been in custody in the Syrian Arab Republic since July 2005 and had been interviewed six times by Syrian intelligence.

64. Although the interview of Mr. Ramadan provided some important corroboration for information UNIIIC already had in its possession regarding Mr. Abu Adass, that aspect of the investigation cannot be concluded without locating and interviewing Mr. Taha and before identifying, locating and interviewing "Mohammed".

4. Telephone analysis

65. As previously noted (see S/2005/662, para. 192), telephone analysis has been a central aspect of the present investigation. Since October 2005, the Commission has concentrated on organizing the telephone data received into manageable databases so that it can be more easily accessible for future analysis. That process has involved compiling over 400,000 records from 195 different files (based on requests for telecommunications data) into one central database. Another database contains over 97 million telecommunications records of all the calls in Lebanon between 7 and 21 February 2005. Those two databases will permit a standardized search of any relevant telephone number and its contacts in an efficient manner which will facilitate future telephone analysis projects.

66. At the same time, the Commission has analysed the telephone calls of specific individuals, in preparation for witness and suspect interviews and to corroborate source information. Those projects will undoubtedly become more complex now that the telephone databases are complete. In addition, at the request of the Lebanese authorities, UNIIIC is in the process of comparing the telephone numbers that the Lebanese authorities have collected in the course of investigating other explosions that occurred in Lebanon in the months before and after 14 February 2005 with the telephone numbers in UNIIIC databases in order to determine if there are any links between those other explosions and the Hariri explosion that merit further inquiry.

5. Prepaid card used to contact Al-Jazeera

67. The identification of the user of a prepaid card which contacted Al-Jazeera on the evening of 14 February 2005 was determined to be a significant lead, in the light of that telephone call and the prepaid card's other telephone contacts (see S/2005/662, paras. 199-203). The user of that card has since been identified and interviewed by the Commission and appears to have credible explanations for those telephone contacts. However, further investigation to corroborate that information will be necessary.

6. Financial transactions

68. As stated in the previous report to the Security Council (see S/2005/662, para. 217) fraud, corruption and money-laundering could also have been motives for individuals to participate in the operation that ended with the assassination of Mr. Hariri. In the course of the investigation, the Commission has followed threads leading into the Bank Al-Madina collapse in mid-2003, including links to Lebanese and Syrian officials as well as to Mr. Hariri.

69. It is not for the Commission to divert its attention into any parallel investigation of fraud, corruption or money-laundering that may have taken place. However, the Commission remains aware that those matters may shed light on the motives of a number of individuals who are within the scope of its own investigation, especially since the Commission has received information that

Mr. Hariri had declared that he would take measures to investigate the Bank scandal more thoroughly if he returned to power.

70. The account records of more than 120 individuals have been collected and are the subject of further analysis and investigative measures.

7. Sûreté Générale

71. Since the last report to the Security Council, the Commission has received information that a suspect, the former Director of the Sûreté Générale, operated an illegal fund out of his office which financed secret operations and might have been used to finance the assassination of Mr. Hariri. Based on that information, investigators recovered 21 binders of documents, records and other evidence from the Sûreté Générale and questioned several witnesses. The materials continue to be analysed and cross-checked with other lines of enquiry that remain open in the investigation.

8. Other explosions

72. The focus of the Commission's work, from its inception, has been to assist the Lebanese authorities in their investigation into the explosion of 14 February 2005. Other explosions which occurred in Lebanon before and since that explosion have not been directly part of the UNIIIC inquiry. However, at the request of the Lebanese authorities, UNIIIC has compared telephone numbers the Lebanese authorities have collected in the course of investigating those other explosions with telephone numbers in the UNIIIC database to determine if there are any common links in the telephone contacts that can be identified and investigated. Further investigation should explore any other such common links and patterns between the Hariri explosion and those other explosions.

9. Other lines of enquiry still to be pursued

73. The Commission has not had time, in the short period available since the end of October 2005, to investigate meaningfully the following issues that were raised in the previous report:

- The nature of, and activities in, the camp in Zabadane where witness information indicates the Mitsubishi Canter truck was seen shortly before the explosion (see S/2005/662, paras. 110 and 111);
- Whether anyone other than Mr. Hariri was affected by the alleged presidential decree of November 2004 mandating a reduction in security personnel for an individual like Mr. Hariri (see S/2005/662, para. 119);
- Identification, location and further contacts related to the ring of prepaid telephone cards, including eight significant telephone numbers and 10 mobile telephones, which are believed to have been used to organize surveillance of Mr. Hariri and carry out the assassination (see S/2005/662, paras. 121 and 148-152);
- Documentation of orders to Internal Security Forces personnel to keep Mr. Hariri under surveillance from the end of January 2005 to the beginning of February 2005 (see S/2005/662, para. 125);

- The reason for the delay of Mr. Hariri's motorcade at a T-junction shortly before the explosion (see S/2005/662, para. 142);
- The cause of the apparent interference with telecommunications in the crime scene area on 14 February 2005 (see S/2005/662, para. 157);
- Identification of the time or origin of the reported fourth call to *Al-Jazeera* on 14 February 2005 (see S/2005/662, para. 194).

III. Syrian cooperation with the Commission

74. In its previous report to the Council, the Commission reported on difficulties it was encountering with regard to the cooperation being extended by the Syrian authorities. Serious delays in the investigation had accrued to cooperation in form rather than in substance. The Council addressed that matter in its resolution 1636 (2005), in particular section III thereof. The Council endorsed the Commission's conclusion that it was incumbent upon the Syrian authorities to clarify a considerable part of the questions which remained unresolved. The Council decided, in this context, that:

(a) The Syrian Arab Republic must detain those Syrian officials or individuals whom the Commission considers as suspected of involvement in the planning, sponsoring, organizing or perpetrating of this terrorist act, and make them fully available to the Commission;

(b) The Commission shall have vis-à-vis the Syrian Arab Republic the same rights and authorities as mentioned in paragraph 3 of resolution 1595 (2005), and the Syrian Arab Republic must cooperate with the Commission fully and unconditionally on that basis;

(c) The Commission shall have the authority to determine the location and modalities for interview of Syrian officials and individuals it deems relevant to the inquiry.

75. The Commission, fully conscious of the need to proceed in a timely manner with its enquiry, has endeavoured to implement the decision of the Council at the earliest opportunity.

76. Upon his return to Beirut to continue the work necessary to advance the investigation under the mandate extended until 15 December 2005, the Commissioner immediately continued his contacts with the Syrian authorities to elicit their full and unconditional cooperation.

77. On 4 November 2005, in a communication addressed to the Minister of Foreign Affairs of the Syrian Arab Republic, the Commissioner summoned six Syrian officials for interviews at UNIIIC Headquarters at Beirut during the period 15-17 November 2005. The Commissioner requested information on the whereabouts of another Syrian citizen, Ziad Ramadan (see paras. 59-64 above), whom it wished to summon as a witness. The Commission indicated also its wish to interview the Minister of Foreign Affairs at the United Nations Office at Geneva on 23 or 24 November 2005. The Commission requested access to Syrian military intelligence archives regarding documents related to Lebanon, covering the period February and March 2005. The Commission further requested the Syrian authorities

to relay to it any evidence or information on who had planned and/or carried out the assassination of Mr. Hariri.

78. The Minister of Foreign Affairs of the Syrian Arab Republic responded to the communication of the Commissioner on 7 November 2005. He indicated that the Syrian authorities would wish to launch on their part a judicial investigation into the assassination of Mr. Hariri. The President of the Syrian Arab Republic had signed, on 29 October 2005, legislative decree No. 96, which established a judicial commission headed by the Prosecutor General of the Republic. The Syrian commission would start its investigation with Syrian nationals, either civilians or from the military, on all issues concerning the mission of UNIIIC and would cooperate with UNIIIC and the Lebanese judiciary on all issues relevant to the procedures of the investigation. The Foreign Minister indicated that the Syrian commission would be in direct contact with UNIIIC to cooperate in order to uncover the truth of Mr. Hariri's assassination and that reaching a framework with UNIIIC would help achieve the required cooperation.

79. On 8 November 2005, the Head of the Syrian Special Investigation Commission, Judge Ghada Murad, invited UNIIIC to the Syrian Arab Republic to explore the best ways and means of cooperation between UNIIIC and the Syrian Commission. She further suggested that a memorandum of understanding be signed in that regard.

80. Also on 8 November 2005, the Commissioner responded to the communications of the Minister of Foreign Affairs and the Head of the Syrian Special Investigation Commission. He indicated that the Commission took note of the establishment of the Syrian judicial commission and that it looked forward to receiving any information and/or advice the Government of the Syrian Arab Republic might wish to share with it as a result of the Commission's work, as well as the archival and other documents requested in his letter of 4 November 2005.

81. The Commission noted, however, that the establishment of the Syrian judicial commission could not invalidate or substitute for the request the Commission had set out in its letter of 4 November 2005. The Commissioner expected the Syrian authorities to cooperate fully and unconditionally. In conformity with Council resolution 1636, section III, paragraph 11 (c), the Commission had determined the date and venue of the interviews of a number of Syrian officials. In view of the urgency of the matter, it was critical that the Commission received a reply before 10 November 2005 in order to facilitate the logistical arrangements related to the interview in Beirut and the meeting in Geneva.

82. On 9 November 2005, the Commissioner received a communication from the Minister of Justice of the Syrian Arab Republic, Judge Mohammed Al-Ghofri, proposing the signature of a negotiable protocol of cooperation. The Minister indicated that the Syrian side considered that the Special Investigation Commission created by legislative decree No. 96 was the Syrian body which was exclusively mandated to cooperate and coordinate with UNIIIC. The Special Commission had carried out an interrogation of the suspected persons and had forbidden them to leave the country in order to make them available when called by UNIIIC. The Minister stated that paragraph 11 (c) of Council resolution 1636 did not necessarily mean that the venue had to be outside the Syrian Arab Republic, but rather it could be the Syrian Arab Republic or any other place that UNIIIC might choose (UNDOF headquarters, for example). He indicated that the interrogation of the suspected

persons and the Syrian witnesses might be carried out in a third venue in order not to provoke any negative feelings between the Syrian and the Lebanese people. Therefore, and for the sake of cooperation, the Syrian side considered it necessary to sign a cooperation protocol between the Syrian Government and UNIIIC, specifying the mechanism for executing resolution 1636. The protocol should be the authority that regulated cooperation between the Government of the Syrian Arab Republic and UNIIIC.

83. On 10 November 2005, the acting Commissioner of UNIIIC sent a communication to the Foreign Minister of the Syrian Arab Republic reminding him that the Commission had determined 10 November 2005 as the deadline for receiving a reply to the Commission's requests of 4 and 8 November 2005. On the same day, the Permanent Representative of the Syrian Arab Republic to the United Nations advised that he was unable to forward that correspondence to the Foreign Minister because the correct party that was dealing with all matters related to the investigation was the Syrian judicial commission.

84. On 18 November 2005, at the official request of the Legal Adviser of the Ministry of Foreign Affairs of the Syrian Arab Republic, the Commissioner agreed to meet with two representatives of the Ministry in Barcelona. The issues discussed focused on the requested interviews of Syrian officials, the venue for the interviews and the proposed protocol for cooperation. The Syrian side promised to forward an official answer in the coming days.

85. On 21 November 2005, the Permanent Representative of the Syrian Arab Republic presented to the President of the Security Council a note verbale regarding the implementation of Council resolution 1636 (2005). The note verbale was circulated to members of the Council on 22 November 2005.

86. On 22 November 2005, the Legal Adviser of the Ministry of Foreign Affairs of the Syrian Arab Republic contacted the Commissioner to request more time to consider the matters discussed in the Barcelona meeting. The Commissioner indicated that he would appreciate receiving a definitive response in the coming days. In a subsequent telephone call to the Legal Adviser on 24 November 2005, the Commissioner reiterated the need for a prompt response, no later than 25 November 2005. On 25 November 2005, the Commissioner received a positive reply.

87. On 5 and 7 December 2005, senior Syrian officials were interviewed at the United Nations Office at Vienna.

IV. Conclusions and recommendations

88. The Commission's conclusions set out in its previous report (see S/2005/662, sect. VI) remain valid. In the interval since the presentation of that report, the investigation has continued to develop multiple lines of enquiry which, if anything, reinforce the conclusions of the previous report.

89. It is important that the steady pace of the substantive lines of enquiry be maintained. The process of convergence of evidence and the careful cross-checking and review of testimony requires time. Extraneous events cannot — and should not — be used to distract the Commission from the mandate given to it by the Security Council to help identify the perpetrators, sponsors, organizers and

accomplices in the terrorist act which was perpetrated in Beirut on 14 February 2005.

90. The next steps to be followed in the investigation and in the work of the Commission to assist the Lebanese authorities are clear: to continue to follow existing lines of enquiry on all aspects of the case; to assess and follow-up new elements which are brought to the Commission's attention; to close out any lines of enquiry which no longer have a direct bearing on the case; to receive at all times the full and unconditional cooperation of the Syrian authorities; and to report on progress to the Security Council at regular intervals. Delays in proceeding with any one of those elements will inevitably have an impact on all of them. In that regard, it would be helpful if a number of Member States from whom specific assistance has been solicited could respond to the Commission's requests.

91. The Commission maintains the view expressed in its earlier report that there were a number of personal and political motives for the assassination of Mr. Hariri. That view has been corroborated, in several respects, by evidence and testimony received since October 2005.

92. The Commission and the Lebanese judicial and security authorities have further enhanced their cooperation in recent weeks in the pursuit of their common objective: to uncover the truth. The Lebanese authorities have the will and a growing capacity to carry forward the investigation in Lebanon. However, given the broader implications of several lines of enquiry, it is essential that the international community continue to support the investigation both inside Lebanon and beyond its borders so that all aspects of the case may be thoroughly investigated and brought to a conclusion.

93. Council resolution 1636 (2005), in particular section III thereof, remains for the Commission a clear and unambiguous mandate for the work of the investigation. In that regard, the Commission has the authority, in its pursuit of witnesses and testimony outside the State of Lebanon, to ask for information and to receive it, to summon named witnesses and suspects (and if need be to request their detention or arrest) and to request evidentiary materials, free from any condition, pressure or interference in that process. The Commission cannot, however, stop the clock: it is equally important that cooperation with the Commission be displayed in a timely and unambiguous manner.

94. The Commission is aware of the request, of the Government of Lebanon, dated 5 December 2005 and further to operative paragraph 8 of Council resolution 1636 (2005), to extend the work of the Commission for a further period. Given that its substantive lines of enquiry are far from being completed and the slow pace with which the Syrian authorities are beginning to discharge their commitments to the Council, the Commission recommends that there be such an extension for a minimum period of six months. Such a decision would avoid the inevitable disruptions to the substantive work of the Commission that result from shorter-term mandate renewals.

95. The Commission relies on the full and unconditional cooperation of the Syrian authorities in the next period of its enquiries so that all aspects of the case under investigation may be ascertained.